Distr.: General
12 January 2015

Original: English

Open-ended intergovernmental expert group on the Standard Minimum Rules for the Treatment of Prisoners
Cape Town, South Africa, 2-5 March 2015

Working paper prepared by the bureau of the third meeting of the Expert Group

I. Background

Established by the United Nations Commission on Crime Prevention and Criminal Justice ("the Commission") upon the request of the General Assembly,[1] the open-ended intergovernmental expert group ("the Expert Group") is mandated to exchange information on best practices, as well as national legislation and existing international law, and on the revision of the existing United Nations Standard Minimum Rules for the Treatment of Prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on possible next steps.

In the course of three meetings, in Vienna from 31 January to 2 February 2012, Buenos Aires from 11 to 13 December 2012 and Vienna from 25 to 28 March 2014, the Expert Group made progress in identifying thematic areas and specific rules for revision, and in drafting specific proposals for some of the rules, and reported to the Commission thereon.

The following nine thematic areas and respective rules were identified for revision upon completion of the second Expert Group meeting:[2]

(a) Respect for prisoners' inherent dignity and value as human beings (rules 6, para. 1; 57-59; and 60, para. 1);

(b) Medical and health services (rules 22-26; 52; 62; and 71, para. 2);

(c) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet (rules 27, 29, 31 and 32);

[1] See General Assembly resolution 65/230 of 21 December 2010, operative paragraph 10.
[2] See E/CN.15/2012/18 and E/CN.15/2013/23.

V.15-00148 (E) 210115 220115

Please recycle

(d) Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment of prisoners (rules 7, 44 bis and 54 bis);

(e) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances (rules 6 and 7);

(f) Right of access to legal representation (rules 30; 35, para. 1; 37; and 93);

(g) Complaints and independent inspection (rules 36 and 55);

(h) Replacement of outdated terminology (rules 22-26, 62, 82-83 and various others);

(i) Training of relevant staff to implement the Standard Minimum Rules (rule 47).

The third meeting of the Expert Group reached agreement on an amended text of the following rules:[3] 6, 22, 27, 30, 34 bis, 57-59 and 60. At its third meeting, the Expert Group discussed, but did not yet agree on, amended text of the following rules: 22, 29, 30, 37 bis and 47.

In its consideration of the report of the third Expert Group meeting, the Commission highlighted a number of principles which should guide the continued revision process,[4] including that:

(a) Any changes to the Standard Minimum Rules should not lower any of the existing standards but should improve them so that they reflect the recent advances in correctional science and good practices, so as to promote safety, security and humane conditions for prisoners;

(b) The revision process should maintain the existing scope of application of the Standard Minimum Rules for the Treatment of Prisoners, and continue to take into account the social, legal and cultural specificities, as well as human rights obligations, of Member States.

The General Assembly, in its resolution 69/192 entitled "Standard Minimum Rules for the Treatment of Prisoners", decided to extend the mandate of the Expert Group, authorizing it to continue its work, with the aim of reaching a consensus, and to present a report for the information of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice and for the consideration of the Commission on Crime Prevention and Criminal Justice at its twenty-fourth session.

The fourth meeting of the Expert Group will be held in Cape Town, South Africa, from 2 to 5 March 2015, with extrabudgetary resources provided by the Government of South Africa.

II. Introduction

The present working paper has been prepared by the bureau of the third meeting of the Expert Group[5] pursuant to operative paragraph 12 of General Assembly resolution 69/192,

[3] See E/CN.15/2014/19.

[4] See E/2014/30-E/CN.15/2014/20, operative paragraphs 6-8.

in which the Assembly invited the bureau to continue to be involved in the revision of the rules by preparing, with the assistance of the Secretariat, a revised consolidated working paper, in all official languages of the United Nations, consisting of the draft revised rules, which should reflect the progress achieved so far, including the recommendations made by the Expert Group at its meetings in Buenos Aires in 2012 and Vienna in 2014, also taking into account proposals for revision put forward by Member States in relation to the areas and rules identified by the General Assembly in operative paragraph 6 of its resolution 67/188, for submission to and consideration by the Expert Group at its next meeting.

The working paper is structured on the basis of the nine thematic areas and specific rules identified in the course of previous expert group meetings. For the sake of clarity and consistency, it follows the same structure for each of the rules considered for revision, consisting of (a) relevant recommendations from previous expert group meetings, as applicable; (b) the original text of the rule and the revision proposed by the bureau; and (c) a brief rationale for the revision proposed by the bureau.

[5] Chair: Ignacio Baylina Ruíz (Spain); Vice-Chairs: Hernán Estrada Román (Nicaragua), Maria Grochulska (Poland) and Lucky Mthethwa (South Africa); Rapporteur: Vongthep Arthakaivalvatee (Thailand).

THEMATIC AREAS (A) AND (E):

RESPECT FOR PRISONERS' INHERENT DIGNITY AND VALUE AS HUMAN BEINGS

PROTECTION AND SPECIAL NEEDS OF VULNERABLE GROUPS DEPRIVED OF THEIR LIBERTY, TAKING INTO CONSIDERATION COUNTRIES IN DIFFICULT CIRCUMSTANCES

---------- Rule 6 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): (a) To extend the grounds on which discrimination should be prohibited in line with subsequently adopted international standards and norms, as well as other references, to include such grounds as age, ethnic origin, cultural beliefs and practices, disability, gender identity and sexual orientation; and (b) to add a paragraph addressing prisoners with special needs, including women; children; older prisoners; prisoners with disabilities; prisoners with mental health-care needs; sick prisoners, in particular patients with AIDS, tuberculosis patients and prisoners with terminal illness; drug-dependent prisoners; ethnic and racial minorities and indigenous peoples; foreign-national prisoners; lesbian, gay, bisexual and transgender prisoners; prisoners under sentence of death; and people in other situations of vulnerability
- Vienna (2014): Agreement to refer to "any other status" in rule 6 (1) as an acceptable compromise formula.

Original text	***Revision proposed by the bureau***
General principle	Basic principles
	"6. (1) All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, for which no circumstances may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.
"6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.	(2) The following rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected.
(2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs."	
	(3) In order for the principle of non-discrimination to be put into practice, prison administration shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required, and shall not be regarded as discriminatory."

Rationale for the revision proposed by the bureau:

The revision adds the humane treatment of prisoners and the prohibition of torture — two fundamental and undisputed principles under international law. The discrimination clause in paragraph 2 reflects the agreement of the Expert Group (Vienna, 2014). Paragraph 3 mirrors the acknowledgement in more recent international standards and norms that certain categories of prisoners are in need of specific support measures in order to benefit from substantive equality.[6]

---------- **Rules 57-59 and rule 60, paragraph (1)** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To relocate rules 57-59 and rule 60, paragraph (1), to make them principles of general application in an amended rule 6, the title of which is to read "Basic principles"
- Vienna (2014): Agreement on amending the text of rules 58 and 59, which is reflected in the revision proposed by the bureau.

Original text	***Revision proposed by the bureau***
"57. Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation."	"6. (4) Imprisonment and other measures which result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.
"58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life."	(5) The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can only be achieved if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.
"59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners."	(6) To this end, institutions and competent authorities should offer education, vocational training and work, as well as other forms of assistance which are appropriate and available, including those of a remedial, moral, spiritual, social, and health- and sports-based nature. All such programmes, activities and services should be

[6] See Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex), principles 1 and 6; Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111, annex), principle 1; International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex), art. 10, para. 1; and United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the "Bangkok Rules") (General Assembly resolution 65/229, annex), rule 1.

	delivered in line with the individual treatment needs of prisoners.
"60. (1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings."	(7) The regime of the institution should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings."

Rationale for the revision proposed by the bureau:

The relocation of rules 57-59, as well as of rule 60, paragraph (1), into an amended rule 6 clarifies that the principles outlined in these rules apply to all categories of prisoner (part I of the Standard Minimum Rules), as opposed to prisoners under sentence only (part II/A of the Standard Minimum Rules). The title of the rule 6 in its amended form would read "Basic principles".

THEMATIC AREA (B):

MEDICAL AND HEALTH SERVICES

---------- Rule 22 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To add the principle of equivalence of health care; to clarify that health-care services in prisons are to be provided free of charge without discrimination; to refer to the need to have in place evidence-based prevention, treatment and care services for HIV, tuberculosis and other diseases, as well as drug dependence treatment programmes that are complementary to, and compatible with, programmes in the community so as to ensure continuity of treatment and care; to add that health policy in prisons shall be integrated into, or at least be compatible with, national health policy; to address the need to maintain, on all prisoners, accurate, up-to-date and confidential medical files that are under the exclusive responsibility of health staff; to refer to a comprehensive approach to preventive and curative health care, taking into account health determinants such as hygiene; to change the heading that precedes rules 22-26 from "Medical services" to "Health-care services"; to replace, in paragraph 1 of rule 22, the text "treatment of states of mental abnormality"
- Vienna (2014): Agreement on adding a new paragraph 1 to rule 22, the text of which is reflected in the revision proposed by the bureau, together with progress in redrafting paragraph 2.

Original text	***Revision proposed by the bureau***
Medical services	Health-care services
	"22. (1) The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care as are available in the community, and should have access to necessary health services free of charge without discrimination on the grounds of their legal status. Health services should be organized in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

"22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.	(2) Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, with particular attention paid to prisoners with special health-care needs or with health issues that hamper their rehabilitation. The service shall be composed of at least one qualified physician and other health-care service providers acting in full clinical independence, and encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner. (3) The health-care service shall prepare and maintain accurate, up-to-date and confidential medical files on all prisoners, who should be granted access to their files upon request.
(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.	(4) All institutions shall ensure prompt access to medical attention in urgent cases. Sick prisoners who require specialist treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care."
(3) The services of a qualified dental officer shall be available to every prisoner."	[included in amended paragraph 2 above]

Rationale for the revision proposed by the bureau:

Revised paragraph 1 was agreed upon by the Expert Group meeting in Vienna (2014), whereas paragraph 2 is based on a draft discussed during that meeting. Paragraph 3 draws upon recommendations from the Expert Group meeting in Buenos Aires.[7]

---------- **Rule 23** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To add text to rule 23, paragraph 2, which would provide for the need to provide ongoing health-care services to children living with their mothers in prisons.

[7] Also see Basic Principles for the Treatment of Prisoners, principle 9; Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principle 24; United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex), rule 54; Bangkok Rules, rules 49 and 51; and the World Medical Association Declaration of Lisbon on the Rights of the Patient (1981), principle 8.

Original text	*Revision proposed by the bureau*
"23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.	"[no change to existing paragraph 1]
(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers."	(2) Decisions to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for: (a) Child-care facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent; (b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists. (3) Children in prison with a parent shall never be treated as prisoners."

Rationale for the revision proposed by the bureau:

Based on the recommendations of the Expert Group meeting in Buenos Aires, the revision carefully follows relevant provisions in international standards and norms adopted since the adoption of the Standard Minimum Rules, and reflects the principle that, in all actions concerning children, the best interests of the child shall be a primary consideration.[8]

---------- **Rule 24** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To add a paragraph to rule 24 which would confirm the ethical obligation of physicians and nurses in prisons to record all signs of torture and other cruel, inhuman or degrading treatment or punishment of which they may become aware in the context of medical examinations upon admission, or when providing medical care to prisoners thereafter, and to report such cases to the competent medical, administrative or judicial authority, after having obtained the explicit consent of the patient concerned and, in exceptional circumstances, without the explicit consent of the patient concerned if the person is unable to express himself or herself freely, and without putting the life and safety of the patient and/or associated persons at risk.

[8] See Bangkok Rules, rules 49 and 51; and Convention on the Rights of the Child (United Nations, *Treaty Series*, vol. 1577, No. 27531), art. 3.

Original text	*Revision proposed by the bureau*
"24. The medical officer shall see and examine every prisoner as soon as possible after his admissio[illegible] thereafter as necessary, with a view particul[illegible]he discovery of physical or mental illness and[illegible] taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work."	"24. A physician, or other health-care service provider reporting to such physician, shall see and examine every prisoner as soon as possible after his or her admission, and thereafter as necessary. When examining prisoners, particular attention should be paid to: (a) Diagnosing physical or mental illness, and taking all necessary measures for its treatment; (b) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including the risk of suicide or self-harm and of withdrawal symptoms resulting from the use of drugs, medication or alcohol; (c) Providing for the segregation of prisoners suspected of having contagious diseases during the infectious period; (d) Determining the fitness of each prisoner to work, to exercise and to participate in other activities."

Rationale for the revision proposed by the bureau:

The revision updates terminology and elaborates on areas to which particular attention should be paid during examinations upon admission. Rule 25 below reflects the respective recommendations from the Expert Group meeting in Buenos Aires.

---------- **Rule 25** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): (a) In rule 25, to elaborate, in paragraph 1, on the primary duties and obligations of health-care staff in prison settings, in particular to act in line with the core principles of medical ethics; to provide patients, in a professionally and independent manner, with protection of their physical and mental health, and not to be involved in any relationship with prisoners the purpose of which is not solely to evaluate, protect or improve their health; to respect the principle of informed consent in the doctor-patient relationship and the autonomy of patients with regard to their own health, including in the case of HIV-testing and the screening of a prisoner's reproductive health history; to respect the confidentiality of medical information, unless doing so would result in a real and imminent threat of harm to the patient or to others; and to abstain, under all circumstances, from engaging, actively or passively, in acts which may constitute participation in, complicity in, incitement to or attempts to commit torture and/or other cruel, inhuman or degrading treatment or punishment; and (b) in rule 26, to allow for the participation of prisoners in clinical trials accessible in the community and in other health research, only if it is expected to produce a direct and significant benefit to their health, and to include a requirement for procedural safeguards to ensure free and informed consent, complemented by external review; to prohibit a detained or imprisoned person, even with his or her consent, from being subjected to any form of medical or scientific experimentation which may be detrimental to his or her health.

Original text	*Revision proposed by the bureau*
"25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.	"25. (1) The physician and, as applicable, other health-care service providers shall see on a daily basis all sick prisoners, all who complain of physical or mental health issues or injury, and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality and in a setting which is free of surveillance, except when health-care personnel explicitly request the presence of prison staff. (2) The relationship between the physician or other health-care service providers and prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular: (a) The duty of protecting prisoners' physical and mental health and the treatment of disease on the basis of clinical grounds only; (b) Adherence to prisoners' autonomy with regards to their own health and informed consent in the doctor-patient relationship; (c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others; (d) An absolute prohibition on engaging, actively or passively, in acts which may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation which may be detrimental to a prisoner's health, as well as the removal of cells, body tissues and organs of a prisoner. (3) Without prejudice to paragraph 2 (d) above, prisoners may be allowed to participate in clinical trials and other health research accessible in the community if these are expected to produce a direct and significant benefit to their health, and to donate cells, body tissues and organs to a relative, upon free and informed consent and in accordance with applicable law.
(2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment."	(4) The physician shall report to the director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

(5) In cases in which health-care service providers become aware of any signs of torture and other cruel, inhuman or degrading treatment or punishment in the course of examining prisoners upon admission, or when providing medical care to prisoners thereafter, they shall document and report such cases to the competent medical, administrative or judicial authority. Proper procedural safeguards shall be followed in order not to expose the prisoner or associated persons to foreseeable risk of harm."

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires and several proposals received from Member States. It also closely mirrors relevant international standards and norms adopted since the adoption of the Standard Minimum Rules, as well as guidance provided by international bodies and professional associations. The revision further incorporates, in paragraph 3, the recommendation from the Expert Group meeting in Buenos Aires to add a rule 26 bis on the participation of prisoners in clinical trials and health research accessible in the community.[9]

--------- Rule 26 ---------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): Identified for revision without specific recommendation.

Original text	***Revision proposed by the bureau***
"26. (1) The medical officer shall regularly inspect and advise the director upon:	"26. (1) The physician or competent public health body shall regularly inspect and advise the director on:
(a) The quantity, quality, preparation and service of food;	(a) The quantity, quality, preparation and service of food;
(b) The hygiene and cleanliness of the institution and the prisoners;	(b) The hygiene and cleanliness of the institution and the prisoners;
(c) The sanitation, heating, lighting and ventilation of the institution;	(c) The sanitation, heating, lighting and ventilation of the institution;
(d) The suitability and cleanliness of the prisoners' clothing and bedding;	(d) The suitability and cleanliness of the prisoners' clothing and bedding;

[9] See, in particular, Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194); Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principle 22; World Medical Association Declaration of Tokyo on Guidelines for Physicians Concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment (1975); World Medical Association Resolution on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment (2003); and World Medical Association Declaration of Helsinki on ethical principles for medical research involving human subjects (1964), para. 17.

(e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.	(e) The observance of the rules concerning physical education and sports, in cases where there are no technical personnel in charge of these activities.
(2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority."	(2) The director shall take into consideration the reports and advice submitted according to rule 25, paragraph (3), and rule 26 and shall take immediate steps to give effect to those recommendations. If those reports do not fall within the director's competence or if he or she does not concur with their findings, the director shall immediately submit his or her own report and the advice of the physician to a higher authority."

Rationale for the revision proposed by the bureau:

The revision updates terminology and takes account of the fact that prisons should be subject to inspections relating to health standards of the same sort as those applicable to schools, hospitals and other institutions in the community.

---------- **Rule 33** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To elaborate on the primary duties and obligations of health-care staff in prison settings, including not to be involved in any relationship with a prisoner the purpose of which is not solely to evaluate, protect or improve the prisoner's health.

Original	***Revisions proposed by the bureau***
"33. Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:	"33. (1) The use of chains, irons and other instruments which are inherently degrading or painful shall be prohibited. Other instruments of restraint shall not be used except in the following circumstances:
(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;	(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
(b) On medical grounds by direction of the medical officer;	[existing paragraph (b) to be deleted]

(c) By order of the director, if other methods of control fail, in order to prevent a prisoner injuring himself or others or from damaging property; in such instances, the director shall at once consult the medical officer and report to the higher administrative authority."	(b) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others, or from damaging property; in such instances, the director shall at once consult the medical officer and report to the higher administrative authority. (2) Prisoners facing serious health issues, as well as women during labour, during childbirth and immediately after childbirth, should not be restrained."

Rationale for the revision proposed by the bureau:

The revision follows the recommendation of the Expert Group meeting in Buenos Aires that was already addressed in revised rule 25 and reflects the development of new devices for restraining prisoners since the adoption of the Standard Minimum Rules. For consistency reasons, the reference to the use of instruments of restraint on medical grounds by direction of the medical officer has been deleted. The prohibition on using instruments of restraint as a form of punishment has been relocated to revised rule 31, paragraph (3).

---------- **Rule 52** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): Identified for revision without specific recommendations.

Original text	***Revision proposed by the bureau***
"52. (1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity. (2) In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency."	[existing rule 52 to be deleted]

Rationale for the revision proposed by the bureau:

The deletion reflects the progressive development of penitentiary health-care services, which are no longer exclusively linked to the residence of health-care service providers. Medical care in urgent cases is addressed in revised rule 22, paragraph (4).

---------- **Rule 62** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): Identified for revision without specific recommendation.

Original text	***Revision proposed by the bureau***
"62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.	[existing rule 62 to be deleted in the event of endorsement of revised rule 22]

Rationale for the revision proposed by the bureau:

The deletion is suggested on the grounds that the content of rule 62 is sufficiently covered in revised rule 22 above.

---------- **Rule 71, paragraph (2)** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): Identified for revision without specific recommendation.

Original text	***Revision proposed by the bureau***
"71. (2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer."	"71. (2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the physician. (2 bis) Prisoners shall not be held in slavery or servitude."

Rationale for the revision proposed by the bureau:

The revision updates terminology and mirrors the prohibition of slavery and servitude as per the International Covenant on Civil and Political Rights.[10]

[10] International Covenant on Civil and Political Rights, art. 8, paras. 1 and 2.

THEMATIC AREA (C):

DISCIPLINARY ACTION AND PUNISHMENT, INCLUDING THE ROLE OF MEDICAL STAFF, SOLITARY CONFINEMENT AND REDUCTION OF DIET

---------- Rules 27 and 29 and rule 30, paragraph (1) ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): (a) In rule 27, to add a paragraph encouraging the establishment of, and resort to, mediation mechanisms to resolve conflicts; and (b) in rule 29, to require that the principles and procedures governing searches be included in the areas in rule 29 that are to be determined by law or by regulation of the competent administrative authority
- Vienna (2014): Agreement on amending the text of rule 27 as reflected in paragraphs (3) and (4) of the revision of rule 27 proposed by the bureau.

Original text	***Revision proposed by the bureau***
Discipline and punishment	Discipline and punishment
"27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life."	27. (1) Discipline shall be maintained with no more restriction than is necessary for safe custody and well-ordered community life.
"29. The following shall always be determined by the law or by the regulation of the competent administrative authority:	(2) The following shall always be determined by the law or by the regulation of the competent administrative authority:
(a) Conduct constituting a disciplinary offence;	(a) Conduct constituting a disciplinary offence;
(b) The types and duration of punishment which may be inflicted;	(b) The types and duration of punishment which may be inflicted;
(c) The authority competent to impose such punishment."	(c) The authority competent to impose such punishment.
"30. (1) No prisoners shall be punished except in accordance with the terms of such law or regulation, and never twice of the same offence."	(3) No prisoner shall be punished except in accordance with the terms of such law or regulation and the principles of fairness and due process. A prisoner must never be punished twice for the same offence.
	(4) Prison administrations shall ensure proportionality between disciplinary punishment and the offence for which it is established, and shall keep a proper record of all disciplinary measures imposed.
	(5) Prison administrations are encouraged to use, to the extent possible, conflict prevention, mediation or any other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts."

Rationale for the revision proposed by the bureau:

The revision draws on agreed text and further discussions during the Expert Group meeting in Vienna and follows the respective recommendation from the Expert Group meeting in Buenos Aires. Rules 27 and 29 and rule 30, paragraph (1), have all been incorporated into a revised rule 27, which outlines the overall principles governing discipline and punishment.

---------- **Rules 31 and 32** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): (a) In rule 31, to add the reduction of diet and of drinking water, prolonged and indefinite solitary confinement, collective punishment and the suspension of family and intimate visits to the practices completely prohibited as punishments for disciplinary offences; (b) to add a prohibition on imposing solitary confinement: (i) for juveniles, pregnant women, women with infants, breastfeeding mothers and prisoners with mental disabilities, as a disciplinary punishment; (ii) for life-sentenced prisoners and prisoners sentenced to death, by virtue of their sentence; and (iii) for pre-trial detainees, as an extortion technique; (c) in rule 32: (i) to limit, in paragraph 1, the imposition of solitary confinement to a disposition of last resort to be authorized by the competent authority, to be applied in exceptional circumstances only and for as short a time as possible; (ii) to encourage efforts to increase the level of meaningful social contact for prisoners while in solitary confinement; (iii) to provide for such punishment to be properly recorded; and (iv) to delete the reference to reduction of diet as a punishment and reference to the medical officer examining prisoners and certifying them fit for punishment.

Original text	***Revision proposed by the bureau***
	"31. (1) General living conditions addressed in these rules, including those related to light, ventilation, heating, sanitation, nutrition, drinking water, access to open air and physical exercise, personal hygiene, health care and adequate personal space, shall continue to apply to all prisoners undergoing punishment for disciplinary offences.
"31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."	(2) In no circumstances may disciplinary punishment amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited as punishments for disciplinary offences: (a) Indefinite solitary confinement; (b) Prolonged solitary confinement without meaningful social contact, including frequently renewed measures that amount to prolonged solitary confinement; (c) Placement of a prisoner in a dark cell; (d) Corporal punishment, including the reduction of diet or drinking water; (e) Collective punishment.

	(3) Instruments of restraint, such as handcuffs and strait-jackets, shall never be applied as a punishment for disciplinary offences.
	(4) Disciplinary sanctions shall not include the prohibition of family contact, in particular with children, unless such sanctions are required for the maintenance of security and are imposed only for a limited time period.
"32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.	32. (1) Solitary confinement shall only be used in exceptional cases as a last resort, for as short a time as possible and subject to regular independent control. It shall not be imposed by virtue of a prisoner's sentence nor shall it amount at any time to an isolation from human contact or interaction.
(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary or depart from the principle stated in rule 31.	(2) The imposition of solitary confinement as a disciplinary measure shall be prohibited in the case of juveniles, pregnant women, women with infants, breastfeeding mothers and prisoners with mental disabilities.
	(3) Health personnel shall not have any role in the imposition of disciplinary measures. They shall, however, pay particular attention to the health of prisoners held under conditions of solitary confinement, including through daily visits to such prisoners and the provision of prompt medical assistance and treatment at the request of such prisoners or of prison staff.
(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health."	(4) Health personnel shall report to the director, without delay, any adverse effect on the physical or mental health of a prisoner undergoing disciplinary punishment."

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires, existing standards and norms which were adopted since the adoption of the Standard Minimum Rules, and international expert guidance on the issue of solitary confinement. It also incorporates parts of rule 33 into revised rule 31 in order to consolidate all measures which must not be imposed as a form of disciplinary punishment.[11]

[11] See Basic Principles for the Treatment of Prisoners, principle 7; United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rule 67; Bangkok Rules, rules 22-23; Principles of Medical Ethics relevant to the role of health personnel, principle 3; Istanbul Statement on the Use and Effects of Solitary Confinement, adopted at the International Psychological Trauma Symposium in 2007 (A/63/175, annex); and the interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment submitted pursuant to General resolution 65/205 (A/66/268).

---------- **Rule 34 bis** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To add a new rule 29 bis providing overall principles governing searches of prisoners and visitors, in line with international standards and norms, including reference to the principles of legality, necessity and proportionality
- Vienna (2014): Agreement on a new rule 34 bis on searches, as reflected in the revision proposed by the bureau.

New rule proposed by the bureau

Searches

"34 bis. (1) The laws and regulations governing searches of prisoners and cells shall be in accordance with obligations under international law and take into account international standards and norms, keeping in mind the need to ensure security in the institution. Searches shall be conducted in a manner that respects the inherent human dignity and privacy of the individual being searched.

(2) Searches shall respect the principles of proportionality, legality and necessity. Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy. For the purpose of accountability, appropriate records of searches shall be kept by the prison administration, in particular of strip searches, body-cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.

(3) Intrusive searches, including strip searches and body-cavity searches, should be undertaken only if absolutely necessary. Institutions shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner. Body-cavity searches shall only be conducted by medical staff other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety."

Rationale for the revision proposed by the bureau:

The revision draws on the agreement reached during the Expert Group meeting in Vienna.[12]

THEMATIC AREA (D):

INVESTIGATION OF ALL DEATHS IN CUSTODY, AS WELL AS OF ANY SIGNS OR ALLEGATIONS OF TORTURE OR INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT OF PRISONERS

---------- **Rule 7** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To change the heading for rule 7 from "Register" to "Record-keeping" and/or "Prisoner file management system", and to reflect technological advances in information management systems; to require that information on the circumstances and causes of death of and serious injury to a

[12] See also Bangkok Rules, rule 19; World Medical Association Statement on Body Searches of Prisoners (1993); Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, adopted as resolution 1/08 by the Inter-American Commission on Human Rights (2008), principle XXI; European Prison Rules (Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe to member States, annex), rule 54.

prisoner, as well as the destination of any remains, be included in the respective prisoner file (management system), along with cases of torture, confinement and punishment; and to include the need to establish information systems on prison capacity and occupancy rate by prison.

Original text	*Revision proposed by the bureau*
Register	Prisoner file management system
"7. (1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:	"7. (1) There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered pages. Procedures shall be in place to prevent unauthorized access to or modification of any information contained in the system.
	(2) No person shall be received in an institution without a valid commitment order. The following information shall be entered in the prisoner file management system upon admission of every prisoner:
(a) Information concerning his identify;	(a) Information concerning his or her identity;
(b) The reasons for his commitment and the authority therefor;	(b) The reasons for his or her commitment and the authority therefor, including date, time and place of arrest;
(c) The day and hour of his admission and release.	(c) The day and hour of his or her admission and release, as well as of any transfer;
	(d) Any visible injuries and complaints about prior ill-treatment;
	(e) An inventory of his or her personal property;
	(f) The names of his or her children, as applicable, as well as their ages, location and custody or guardianship status.
(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register."	(3) The following information shall be entered in the prisoner file management system in the course of imprisonment, as applicable:
	(a) Information related to the judicial process, including dates of court hearings and legal representation;
	(b) Initial assessment and classification reports;
	(c) Information related to behaviour and discipline;
	(d) Requests and complaints, including allegations of torture and other forms of cruel, inhuman and degrading treatment or punishment, unless they are of a confidential nature;

(e) Information on the imposition of disciplinary measures;

(f) Information on the circumstances and causes of injuries or death and, in the case of the latter, the destination of the remains.

(4) All records referred to above shall be kept confidential and made available only to those whose professional responsibilities require access to such records. Every prisoner shall be provided with copies of the records pertaining to him or her if so requested, and be entitled to receive a certified copy upon release.

(5) Prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making."

Rationale for the revision proposed by the bureau:

The revision reflects technological advancements since the adoption of the Standard Minimum Rules, follows the recommendations from the Expert Group meeting in Buenos Aires and draws on several drafting proposals received from Member States.

---------- **Rule 44** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To add a new paragraph to rule 44 addressing the need of prison administrations to provide for, or to facilitate, culturally appropriate burials in the event of custodial deaths.

Original text	***Revision proposed by the bureau***
Notification of death, illness, transfer, etc.	Notifications
	"44. (1) Every prisoner shall have the right, and be enabled, to inform at once his or her family, and any other person designated as a contact person, of his or her imprisonment, as well as of his or her transfer to another institution.
"(1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.	(2) In the event of a prisoner's serious illness, injury or death, including his or her transfer to a health institution, the director shall at once inform the prisoner's spouse or nearest relative, and any other person previously designated by the prisoner. The explicit request of a prisoner to not have his or her spouse or nearest relative notified in the event of illness or injury shall be respected.

(2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.	(3) The prison administration shall inform a prisoner at once of the serious illness or death of a near relative or any significant other. The prisoner should be authorized, whenever circumstances allow, to go to the person's bedside in the case of critical illness or to attend the person's burial, either under escort or alone, in the case of death.
(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution."	[included in amended paragraph 2 above]

Rationale for the revision proposed by the bureau:

The revision is closely based on international standards which were adopted since the adoption of the Standard Minimum Rules, as well as several proposals received from Member States

---------- **Rule 44 bis** ----------

- Buenos Aires (2012): To add a new rule 44 bis including the obligation of prison administrations to initiate and facilitate prompt, thorough and impartial investigations either of all incidents of death in custody or of incidents of unnatural, violent or unknown death in custody or shortly following release, including with independent forensic or post-mortem examinations, as appropriate; to clarify in a separate paragraph of 44 bis that the findings of such investigations should be disclosed to competent authorities and selected control bodies, whereas further disclosure should respect the need to protect personal data as per national law; to add a new rule 54 bis including the obligation of prison administrations or other competent bodies, as appropriate, to initiate a prompt and impartial investigation whenever there are reasonable grounds to believe that an act of torture or other inhuman or degrading treatment or punishment has been committed in a prison setting, irrespective of whether a complaint has been received.

New rule proposed by the bureau

Investigations

"44 bis (1) Notwithstanding the initiation of an internal investigation, the director shall report, without delay, any custodial death, disappearance or serious injury to a competent authority which is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases. The prison administration shall fully cooperate with such authority and ensure that all evidence is preserved.

(2) The obligation in paragraph 1 shall equally apply whenever there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed in prison, irrespective of whether a formal complaint has been received.

(3) The prison administration shall treat the body of a deceased prisoner with respect and dignity. The body of a deceased prisoner should be returned to the next of kin as soon as is reasonable, and upon completion of the investigation at the latest. The prison administration shall facilitate a culturally appropriate burial if there is no other responsible party willing or able to do so."

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires, takes into account several proposals received from Member States and reflects international standards which were adopted since the adoption of the Standard Minimum Rules.[13]

THEMATIC AREA (F):
THE RIGHT OF ACCESS TO LEGAL REPRESENTATION

---------- Rule 35 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): In paragraph 1, to add the right of prisoners to access to legal advice to the list of topics about which information should be provided to every prisoner upon admission.

Original text	***Revision proposed by the bureau***
"35. (1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.	"35. (1) Upon admission, every prisoner shall be promptly provided with written information about: (a) Prison law and applicable prison regulations; (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints; (c) His or her obligations, including applicable disciplinary measures; (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the institution. (2) The information shall be available in the most commonly used languages, in accordance with the needs of the prison population. If a prisoner does not understand any of these, interpretation assistance should be provided.
(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally."	(3) If a prisoner is illiterate, the aforesaid information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.

[13] See Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principle 34; Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX), annex), art. 9.

	(4) The prison administration shall prominently display summaries of the information referred to in paragraph 1 in common areas of the institution."

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires and elaborates on the obligation of prison administrations to effectively communicate prisoner's rights and obligations to all prisoners, including those with special needs, in line with international standards and norms.[14]

---------- Rule 30 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To provide for a qualified right to legal advice in the context of disciplinary proceedings, i.e. insofar as breaches of discipline are prosecuted as crimes (or in serious disciplinary cases involving heavy penalties or complicated points of law)
- Vienna (2014): Progress in redrafting rule 30; and agreement on language, as reflected in paragraph 2 of the revision proposed by the bureau.

Original text	***Revision proposed by the bureau***
"30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.	"[relocated to become paragraph 2 of amended rule 29]
	30. (1) Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.
(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case."	(2) Prisoners shall be informed, without delay and in a language which they understand, of the nature of the accusations against them, and be given adequate time and facilities for the preparation of their defence.
(3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter."	(3) Prisoners shall be allowed to defend themselves in person or through legal assistance when the interest of justice so requires, particularly in cases involving serious disciplinary charges. If they do not understand or speak the language used at a disciplinary hearing, they shall be assisted by an interpreter free of charge.

[14] See, for example, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (General Assembly resolution 67/187, annex), guideline 6; Convention on the Rights of Persons with Disabilities (United Nations, *Treaty Series*, vol. 2515, No. 44910), art. 14, para. 2, and art. 21; and recommendations on the treatment of foreign prisoners (*Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.1, annex II), recommendation 4.

(4) Prisoners shall have the opportunity to seek judicial review of disciplinary punishment imposed on them.

(5) In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to legal counsel."

Rationale for the revision proposed by the bureau:

The revision follows the recommendations of the Expert Group meeting in Buenos Aires and builds on the progress in redrafting rule 30 made during the 2014 Expert Group meeting in Vienna, including on some of its parts on disciplinary action and punishment. The proposal also closely mirrors several proposals received from Member States and relevant provisions in international standards and norms adopted since the adoption of the Standard Minimum Rules.[15]

---------- **Rules 37, 37 bis and 37 ter** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To grant all prisoners the right to meet and consult with a legal advisor of their own choice and at their own expense, on any legal matter and under similar conditions as established in rule 93, to be complemented by the access of imprisoned persons to legal aid mechanisms to the maximum extent possible, including at the pre-trial and post-trial stages, in line with international standards and norms; and to grant those prisoners who do not speak the local language access to an interpreter in the course of correspondence or meetings with legal advisors
- Vienna (2014): Discussion on adding a rule 37 bis on the searches of visitors.

Original text

"37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits."

Revision proposed by the bureau

"37. (1) Prisoners shall be allowed, under necessary supervision, to communicate with their family and reputable friends, at regular intervals:

(a) By written and, where available, electronic or digital correspondence;

(b) By telephone;

(c) By receiving visits.

(2) Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. In addition, procedures and premises shall be in place to ensure fair and equal access with due regard to safety and dignity.

[15] See United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, guideline 6.

New rules proposed by the bureau

"37 bis. (1) In order to ensure safety and security in their facilities, prison administrations shall develop search procedures applicable to visitors. Such procedures shall undermine neither the right of prisoners to receive visits nor respect for the inherent human dignity of the visitor.

(2) The modalities of searches of visitors shall be governed by the same principles as outlined in rule 35 [34 bis], but may only be undertaken with the consent of the visitor concerned. Intrusive searches shall never be applied to visiting children."

"37 ter. (1) Prisoners shall be provided with adequate opportunity, time and facilities to be visited by, and to communicate and consult with, a legal adviser of their own choice, without delay, interception or censorship and in full confidentiality, on any legal matter. Consultations may be within sight, but not within hearing, of prison staff. In cases in which prisoners who do not speak the local language, the prison administration shall facilitate access to the services of an independent interpreter.

(2) A judicial authority may, in exceptional circumstances to be specified by law or regulation, authorize restrictions on such confidentiality to prevent serious crime or major breaches of prison safety and security.

(3) Prisoners shall have access to, or be allowed to keep in their possession, without access by the prison administration, documents relating to their legal proceedings.

(4) Prisoners should have access to effective legal aid, and be informed of existing legal aid schemes."

Rationale for the revision proposed by the bureau:

- The revision takes into account the recommendations from the Expert Group meeting in Buenos Aires, language from international and regional standards and norms adopted since the adoption of the Standard Minimum Rules, as well as several proposals received from Member States. It also reflects technological and procedural advancements with relevance to prison settings. The new rule 37 bis builds on the draft rule discussed at the 2014 Expert Group meeting in Vienna and further draws upon rule 34 bis (Searches), which was agreed upon during that meeting. Legal assistance is proposed to be addressed in a new rule 37 ter owing to the distinct nature of the issue.[16]

---------- **Rule 93** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Vienna (2014): To replicate the language of more recent international standards and norms addressing the access of detainees to legal advice, including the right to be granted such access without delay or interception and in full confidentiality, subject to suspension or restriction only in exceptional circumstances to be specified by law or lawful regulation, when it is considered indispensable in order to maintain security and good order.

[16] See Basic Principles on the Role of Lawyers (*Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.3, annex), principle 8; United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, guideline 6; Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principle 18; European Prison Rules, rule 23.6; and Bangkok Rules, rule 27.

Original text	*Revision proposed by the bureau*
"93. For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official."	"93. (1) Every untried prisoner has the right to be promptly informed about the reasons for his or her detention and of any charges against him or her. (2) If an untried prisoner does not have a legal adviser of his or her own choice, he or she shall be entitled to have a legal adviser assigned to him or her by a judicial or other authority in all cases where the interests of justice so require and without payment by the untried prisoner if he or she does not have sufficient means to pay. Denial of access to a legal adviser shall be subject to independent review without delay. (3) The entitlements and modalities governing the access of an untried prisoner to his or her legal advisor, as well as to legal aid for the purpose of his or her defence, shall be governed by the same principles as outlined in rule 37 bis. (4) An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser.

Rationale for the revision proposed by the bureau:

The revision is based on the amended version of rules 37 and 38, and cross-references respective entitlements. It further reiterates the well-established principle under international law that every person deprived of his or her liberty has the right to be informed about the charges against him or her, and elaborates on the modalities for the assignment of legal counsel free of charge, in line with existing international standards and norms.[17]

THEMATIC AREA (G):

COMPLAINTS AND INDEPENDENT INSPECTION

---------- Rule 36 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To delete the restriction concerning a prisoner's right to make requests and complaints only during "each week day", and delete the reference to the possibility of not promptly dealing with, or replying to, requests or complaints that are "evidently frivolous or groundless"; to add a subparagraph on the need to have in place safeguards that would ensure that avenues are available for prisoners to make requests or complaints in a safe, direct and confidential manner, without any risk of

[17] See International Covenant on Civil and Political Rights, art. 9, para. 2; and Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principles 10; 17, para. 2; and 18.

retaliation or other negative consequences; to add a subparagraph addressing the entitlement of prisoners to bring their requests or complaints before a judicial or other (independent and impartial) authority if the initial request or complaint is rejected, or in cases of undue delay; to replace, in paragraph 2, the current text related to conversations between prisoners and an inspector or any other inspecting officer "without the director or other members of staff being present" with the text "freely and confidentially"; to extend, in paragraph 3, the right to make complaints to the prisoner's legal counsel and, in the event that neither the prisoner nor his or her legal counsel is able to exercise this right, to a member of the prisoner's family or any other person who has knowledge of the case, in equal conditions before the law; to make explicit reference to allegations of torture and other cruel, inhuman or degrading treatment of punishment, which should be dealt with immediately and should result in a prompt and impartial investigation conducted by an independent national authority as per rule 54 bis.

Original text	*Revision proposed by the bureau*
"36. (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.	"36. (1) Every prisoner shall have the opportunity each day of making requests or complaints to the director of the institution or the officer authorized to represent him or her.
(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.	(2) It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer freely and confidentially, and without the director or other members of the staff being present.
(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.	(3) Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.
	(4) The rights under paragraphs 1 and 3 shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility to exercise such rights, a member of the family of the prisoner or any other person who has knowledge of the case may do so.
(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay."	(5) Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.
	(6) Safeguards shall be in place to ensure that prisoners can make requests or complaints safely, and in a confidential manner if so requested by the complainant. A prisoner or other person mentioned under paragraph 4 must not be exposed to any risk

of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.

(7) Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and result in a prompt and impartial investigation conducted by an independent national authority as per rule 44 bis, paragraph (2)."

Rationale for the revision proposed by the bureau:

The revision closely follows the recommendations from the Expert Group meeting in Buenos Aires, draws on several proposals received from Member States and reflects relevant international standards and norms adopted since the adoption of the Standard Minimum Rules.[18]

---------- **Rule 55** ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): To refer to the desirability of an inspection system comprising both governmental agencies (internal) and external inspection bodies in a complementary way, whereby external inspection bodies should be independent from the authority in charge of the administration of places of detention or imprisonment; to add a new paragraph addressing the powers of independent inspection mechanisms, including, but not limited to, access to information on the number of both persons deprived of their liberty and places of detention, including locations, as well as to all information relevant to the treatment of persons deprived of their liberty, including conditions of detention; the power to freely choose which places of detention to visit, including by making unannounced visits at their own initiative, and which persons deprived of liberty to interview; and the authority to conduct private and fully confidential interviews with persons deprived of their liberty in the course of visits; to add text to the effect of including, as much as possible, women and health-care specialists in the "qualified and experienced inspectors appointed by a competent authority"; to require, in a new subparagraph, that any inspection should be followed by a written report to be submitted to the competent authority, which would include an assessment of compliance of penal institutions and services with national law and relevant international standards, as well as recommended reform steps to be taken to improve compliance, and the findings of which should be made public, excluding any personal data relating to a prisoner without his or her express consent.

Original text	***Revision proposed by the bureau***
Inspections	Internal and external inspections
"55. There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure	"55. (1) There shall be a twofold system for regular inspections of penal institutions and services:

[18] See Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principle 29, para. 2, and principle 33; see also Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 55/89), principle 3 (b).

that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services."

(a) Internal or administrative inspections conducted by the central prison administration;

(b) External inspections conducted by a body independent from the prison administration.

(2) In both cases, the objective of inspections shall be to ensure that penal institutions are managed in accordance with existing laws, regulations, policies and procedures with a view to bringing about the objectives of penal and correctional services, and that the rights of prisoners are protected.

(3) Inspectors shall have the authority to:

(a) Access all information on the number of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention;

(b) Freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;

(c) Conduct private and fully confidential interviews with prisoners in the course of their visits;

(d) Make recommendations to the prison administration and other competent authorities.

(4) External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority, and encompass medical personnel. Due regard shall be given to balanced gender representation.

(5) Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available."

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires and is closely based on relevant international conventions, standards and norms adopted since the adoption of the Standard Minimum Rules.[19]

[19] See Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, principle 29; Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65), principle 7;

THEMATIC AREA (H):

THE REPLACEMENT OF OUTDATED TERMINOLOGY

---------- Preliminary observation 5 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Vienna (2014): To replace, in paragraph 1, reference to "Borstal institutions" with "juvenile detention centres".

Original text	***Revision proposed by the bureau***
"5. (1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions."	"5. (1) The rules do not seek to regulate the management of institutions set aside for young persons, such as juvenile detention facilities or correctional schools, but in general part I would be equally applicable in such institutions."

Rationale for the revision proposed by the bureau:

The revision builds on the recommendation from the Expert Group meeting in Buenos Aires and is in line with international standards and norms adopted since the adoption of the Standard Minimum Rules.[20]

---------- Rules 82 and 83 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Vienna (2014): To replace the heading of rules 82 and 83 ("Insane and mentally abnormal prisoners"); to replace, in rule 82, paragraph 1, the term "insane"; to replace, in rule 82, paragraph 2, the text "prisoners who suffer from other mental diseases or other abnormalities".

Original text	***Revision proposed by the bureau***
B. Insane and mentally abnormal persons	B. Prisoners with mental disabilities
"82. (1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.	"82. (1) Persons who are found to be seriously or acutely mentally ill shall not be detained in prisons and arrangements shall be made to transfer them to mental-health institutions as soon as possible.
(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management."	(2) Other prisoners with mental disabilities shall be observed and treated in specialized institutions under the supervision of qualified health-care service providers.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rules 72-74; Bangkok Rules, rule 25, para. (3); Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 57/199), arts. 20-21

[20] See United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rules 32, 54 and 83.

(3) During their stay in prison, such prisoners shall be placed under the special supervision of a medical officer.	(3) During their stay in prison, such prisoners shall be placed under the special supervision of a physician.
(4) The medical or psychiatric service of the penal institution shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.	(4) The health service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment."
83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare."	[no change to existing rule 83]

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires and is in line with contemporary use of health-related terminology.[21]

---------- Various other rules ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Vienna (2014): To replace "he" with "he or she" and "his" with "his or her" throughout the Standard Minimum Rules if not already addressed in the revisions proposed under other thematic areas, including in the following: rule 9, para. (1); rule 17, paras. (1) and (3); rule 20, para. (2); rule 41, paras. (2) and (3); rule 42; rule 43, paras. (1) and (2); rule 50; rule 51, para. (1); rules 61 and 64; rule 66, para. (2); rule 69; rule 76, para. (3); rules 79 and 80; rule 81, para. (2); rule 88, paras. (1) and (2); and rules 89-92.

Rationale for the revision proposed by the bureau:

The revision follows the recommendations from the Expert Group meeting in Buenos Aires, with a view to rendering the Standard Minimum Rules a gender-sensitive document, and mirrors respective provisions under international law.[22]

THEMATIC AREA (I):

TRAINING OF RELEVANT STAFF TO IMPLEMENT THE STANDARD MINIMUM RULES

---------- Rule 47 ----------

Relevant recommendations from previous Expert Group meetings (as applicable):

- Buenos Aires (2012): (a) To acknowledge the positive impact of staff training on professionalism and sound prison management; (b) to add a new paragraph clarifying that the training referred to in paragraphs 1 and 2 includes, at a minimum, instructions on international and regional human rights instruments, United Nations standards and norms relevant to the treatment of prisoners and relevant

[21] See World Health Organization Europe, "Trenčín statement on prisons and mental health" (2008).

[22] See Convention on the Elimination of All Forms of Discrimination against Women (United Nations, *Treaty Series*, vol. 1249, No. 20378), art. 2, para. (c).

regional and national legislation and codes of conduct, as applicable; the rights and duties of, and prohibitions on, prison staff in the exercise of their functions, including respect for the human dignity of all prisoners and the prohibition of torture and other cruel, inhuman or degrading treatment of punishment; security matters, including the use of force and the management of violent offenders, with a focus on preventive and defusing techniques; and training oriented towards care and social inclusion; (c) to include reference to the need for training to be based on research results and be reflective of contemporary best practice in penal sciences; (d) to add a new paragraph requesting that prison staff, including those who are assigned specialized functions, should receive specialized training, taking into account, inter alia, the special needs of prisoners in situations of vulnerability, non-discrimination and social inclusion.

Original text	***Revision proposed by the bureau***
"47. (1) The personnel shall possess an adequate standard of education and intelligence.	"47. (1) All personnel shall possess an adequate standard of education, and shall be enabled to carry out their duties in a professional manner.
(2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.	(2) Before entering on duty, all personnel shall be provided with training tailored to the general and specific duties of prison staff, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass theoretical and practical tests at the end of such training shall be allowed to enter the prison service.
(3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.	(3) After entering on duty and during their career, the prison administration shall ensure the continuous provision of in-service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel.
	(4) Training referred to in paragraph 2 shall include, at a minimum, training on:
	(a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide their work and interactions with inmates;
	(b) Rights and duties of, and prohibitions on, prison staff in the exercise of their functions, including respect for the human dignity of all prisoners and an absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;
	(c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;

(d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.

(5) Personnel who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.

Rationale for the revision proposed by the bureau:

The revision is based on the recommendations from the Expert Group meeting in Buenos Aires and mirrors relevant provisions in international conventions, standards and norms adopted since the adoption of the Standard Minimum Rules.[23]

---

[23] See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (*Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex), principles 19-20; United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rule 85; Bangkok Rules, rule 29; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations, *Treaty Series*, vol. 1465, No. 24841), art. 10.